

Claim 1 has been amended to include the limitation of claim 2.

Claims 3, 8, 14, 20, 24, 40, 43, 70, 75, 76, 77 and 84 have been amended for proper antecedent basis.

Claim 38 has been amended to include the limitation of claim 39.

Claim 68 has been amended to include the limitation of claim 69.

Claims 98-113 are subject to a requirement for restriction. Applicants affirm the election to prosecute claims 1, 3-11, 14-16, 20, 24, 38, 40-46, 63, 64, 67, 68, 70-78 and 84. The Examiner has divided the claims into four groups: group I includes claims 1-98, group II includes claims 98-103, group III includes claims 104-108 and group IV includes claims 109-113. Applicants respectfully traverse this restriction. Although the claims are distinct, Applicants submit that since the groups relate to a garment, a garment blank, a process for securing elastic in a web that is used to produce such garments and an apparatus for placing the elastic in the web that it would not be an undue burden on the examiner to search the groups concurrently. Accordingly, Applicants respectfully request the restriction be withdrawn. If the restriction is maintained the claims will be canceled without prejudice so that a continuing application can be filed for further prosecution of these claims.

Claims 1, 16, 38, 68 and 84 were rejected under 35 U.S.C. § 102 (b) as being anticipated by Herrin et al. (U.S. Pat. No. 5,545,275). Applicants respectfully submit that the amendment to claims 1, 68 and 84 overcomes this rejection.

Herrin et al. discloses a method for ultrasonically welding together opposing panels to form a disposable garment. The garment is described generally in column 4, line 60 through column 5, line 63. Herrin et al. clearly teach that when the garment is laid out flat, the elastics are under tension. Not until the web is folded and the web is bonded is the elastic stretch relieved. To relieve the elastic stretch, the leg elastic is allowed to roll inwardly along the periphery of the leg opening. See column 5, lines 7-16. Figures 3 and 6 further support that Herrin et al. do not anticipate the claimed invention by illustrating that the elastic will exert a tension force around the leg cuff and that no portion of the elastic is relaxed prior to folding the web.

Applicants' claimed invention is a garment subassembly that has elastic through the leg openings and crotch area that when the subassembly is laid flat the

second section of the elastic is substantially relaxed and the first and third sections of the elastic are stretched. As noted on page 14, line 32 through page 15, line 5 of the specification the elastic in the openings provides a garment that properly fits the wearer in position and shape. Accordingly, Applicants submit that Herrin et al. do not anticipate the claimed invention.

Claim 63 was rejected under 35 U.S.C. § 103 as being obvious over Herrin et al. in view of Watanabe et al. (U.S. Pat. No. 5,449,353) and Great Britain 2 189 133 (GB '133). Applicants respectfully submit that the amendment to claim 63 overcomes this rejection.

As noted above, Herrin et al. do not teach or suggest that any portion of the elastic used in forming a garment subassembly should be substantially relaxed when laid out flat. That is, prior to folding the web and ultrasonically bonding the web together. Applicants submit that Watanabe et al. and GB '133 would not motivate one skilled in the art to modify the teachings of Herrin et al. to derive the claimed invention. One skilled in the art would understand Watanabe et al. to affirm the teaching of Herrin et al. Watanabe teaches in column 4, lines 61-65 and column 5, lines 1-6 that the garment subassembly elastic members are connected to the body of the assembly in stretched states and the stress is preferably 70-100 grams to prevent a gap at the leg opening. Moreover, GB '133 teach that the leg holes are surrounded by associated elastic members when assembled and the elastic members 5a, 5b and 6c are a urethane foam that exhibits elasticity when heat treated and are extremely wide i.e. 10 millimeters to 45 millimeters. Page 3, lines 12-16. One skilled in the art would understand that if an elastic were used instead of the foam, the elastic would be in a stretched condition. Accordingly, Applicants submit that Herrin et al. in view of Watanabe et al. and GB '133 would teach to one skilled in the art to use an elastic that is in a completely stretched or tensioned condition. This is contra to Applicant's claimed invention where only a portion of the first and second elastics is stretched and a portion is relaxed.

Claims 2-15, 20-28, 32, 35-37, 39-50, 58, 62, 64-67, 69-80, 88-92, 94, and 95-97 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten. Applicants submit that the amendment overcomes this objection.

Therefore, in view of the amendments and remarks above, Applicants submit that claims 1, 3-11, 14-16, 20, 24, 38, 40-46, 63, 64, 67, 68, 70-78 and 84 are patentably distinguishable over the cited art and respectfully request that the application be passed to allowance at the examiner's convenience.

The undersigned may be reached at (414) 721-2985.

Respectfully Submitted,
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Certificate of Mailing

I, Sally A. Smits, hereby certify that on February 6, 1997, this First Amendment is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

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